

### **Remarks**

The undersigned respectfully requests reconsideration of this application in view of the following remarks. In this response, claims 1-18 have been canceled, without prejudice, no claims have been amended and no claims have been added. Hence, claims 19-27 remain pending for reconsideration.

The undersigned acknowledges with thanks the Examiner's withdrawal of the previous Double Patenting Rejection, Objection to Drawings and 112 rejection.

A Notice of Appeal is submitted concurrently herewith.

### **Claim Rejections – 35 U.S.C. §103** **Alles in view of Sarnikowski and further in view of Rao**

In the Office action, the Examiner rejected claims 1, 6, 11, 13-24, 26 and 27 under 35 U.S.C. §103(a) for allegedly being unpatentable over US Patent No. 6,466,976 of Alles et al. (hereafter "**Alles**") in view of US Patent No. 6,453,406 of Sarnikowski et al (hereafter "**Sarnikowski**") and further in view of US Patent No. 6,674,756 of Rao (hereafter "**Rao**"). The undersigned respectfully disagrees with the Examiner's characterization of the teachings and/or applicability of Alles, Sarnikowski and Rao to the pending claims and points out several distinctions between the claimed subject matter and the relied upon references in combination.

Regarding the one remaining independent claim, claim 19, the proposed combination of Alles, Sarnikowski and Rao do not reasonably teach or suggest "providing changeable provisioning of processing capacity between the first subscriber and the second subscriber by **programmatically dynamically reallocating resources** of the first service processing switch or the second service processing switch between the first partition and the second partition based on comparative processing demands of the first set of customized application layer services and the second set of customized application layer services" (Emphasis Added). The Examiner relies on col. 8 of Alles at lines 4-9, 11-15 and 48-52 for the proposition that Alles teaches reallocation of resources between subscribers, dynamically. While the cited portions of Alles do contain the word "dynamically," it is respectfully submitted these portions of Alles do not relate to dynamic reallocation of resources between partitions of subsets of virtual routers as

claimed. Rather, the relied upon portions of Alles indicate the **processing rules may be generated dynamically**. Meanwhile, the mere fact that Alles mentions a subscriber may be permitted higher bandwidth during certain times (as a result of application of the subscriber-specific processing rules) does not reasonably suggest the dynamic reallocation of resources as required by claim 19. Rather, the resources being used by the subscriber may simply be subject to higher or lower usage based on the time of day. Finally, neither Sarnikowski nor Rao are relied upon by the Examiner for this aspect of claim 19 and the undersigned has found nothing in the disclosures of Sarnikowski or Rao relating to the dynamic reallocation of resources as recited by claim 19. For at least these reasons, independent claim 19 and its dependent claims, which add further limitations, are distinguishable over the new combination of references now relied upon by the Examiner.

### **Conclusion**

The undersigned respectfully submits that the remarks presented herein have overcome the rejections, and that the pending claims are in condition for allowance. Accordingly, the undersigned requests that the rejections be withdrawn and that a Notice of Allowance be promptly issued for claims 19-27.

### **Request for a Telephone Interview**

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 303-284-5103.

Respectfully submitted,  
HAMILTON, DESANCTIS & CHA

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